

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

DAVID CONLEY and KATRIEN VAN DIJK,

Plaintiffs,

v.

CIVIL NO. 1:10-cv-01247-TSE-JFA

FIRST TENNESSEE BANK, N.A.

Defendant.

STIPULATION AND AGREED WITHDRAWAL OF MOTION TO DISMISS

Come now, First Tennessee Bank, N.A., the Defendant, and David Conley and Katrien Van Dijk, the Plaintiffs, together “the Parties,” with their joint Stipulation. On January 7, 2011, Defendant filed a Motion to Dismiss (Docket #6) and Memorandum In Support (Docket #7), to which Plaintiffs filed an Opposition (Docket #11). Thereafter, the Parties agreed and hereby stipulate that:

- (1) Plaintiffs allege that they were not in default on their mortgage at the time they applied for a refinance of their mortgage with Defendant;
- (2) Plaintiffs allege that they submitted to Defendant a completed application for a mortgage refinance;
- (3) Plaintiffs only seek monetary damages on behalf of the VECOA class, as defined in the original Complaint. Plaintiffs seek only injunctive and declaratory relief on behalf of the ECOA class, as defined in the original Complaint.

The Parties remain in disagreement on the legal arguments presented in the Motion to Dismiss and Opposition, respectively. However, having agreed to the Stipulation, and with the

agreement of the Plaintiffs, the Defendant hereby withdraws its Motion to Dismiss (Docket #6).

Defendant will file an Answer to the Plaintiffs' Complaint by February 25, 2010 and reserves all right to assert any of the grounds raised in its Motion to Dismiss as affirmative defenses.

Dated: February 15, 2011.

FIRST TENNESSEE BANK NATIONAL
ASSOCIATION

/s/ Matthew S. Sheldon

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to:

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